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22CV09945

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

) Case No.:
6 DAMONICA MOORE,)
Plaintiff,) COMPLAINT FOR DAMAGES
7 vs.)
) Prayer Amount: \$100,000.00
8 RITE AID HDQTRS. CORP. and)
WINKAL HOLDINGS, L.L.C.,) Filing Fee: \$594.00
9 Defendants.) ORS 21.160 1 (c)
)
) NOT SUBJECT TO
) MANDATORY
) ARBITRATION

NOW COMES, the Plaintiff, Damonica Moore, by and through her counsel, Clark Law & Associates, LLC, and hereby complains of Defendants Rite Aid Hdqtrs. Corp. and Winkal Holdings, L.L.C, as follows:

VENUE

1.

Venue is proper where the acts giving rise to the cause of action occurred, Multnomah County, Oregon.

PARTIES

2.

A. Plaintiff Damonica Moore ("Plaintiff") is a resident of Gresham, Multnomah County, Oregon.

B. Defendant Rite Aid Hdqtrs. Corp. is a for-profit corporation authorized to do business in the State of Oregon, organized and operating under the laws of the State of Pennsylvania and having its principal place of business located at 30 Hunter Lane, Camp Hill, Pennsylvania.

1 C. Defendant Winkal Holdings, L.L.C. is a for-profit corporation authorized to do business in
2 the State of Oregon and having its principal place of business located at 10 Rye Ridge Plaza,
3 Ste. 200, Rye Brook, New York, 10573.

4 PRELIMINARY FACTS

5 3.

6 At all material times and occurrences:

7 A. Defendant Rite Aid owned and operated a store located at 1555 NE Division Street,
8 Gresham, Oregon, it being a pharmacy and retail store selling home goods (“the store”).

9 B. Defendant Winkal Holdings, L.L.C owned and operated a shopping plaza located at 1555
10 NE Division Street, Gresham, Oregon (“the plaza”) consisting of a number of retail store
11 tenants, including the store owned and operated by Defendant Rite Aid.

12 C. On April 5, 2020, Plaintiff was lawfully on the premises of the store for a purpose connected
13 to the profit and business of the Defendant Rite Aid.

14 D. Embedded in the concrete sidewalk adjacent to the outside the entrance to the store and in the
15 area where business patrons of Defendant Rite would routinely walk as they entered the store
16 and protruding up from the concrete was a washer, bolt and nut.

17 E. Because the shade and color of the protruding bolt was similar in shade and color to the
18 concrete it was embedded in, the presence of the bolt posed an unreasonable risk of harm to
19 customers entering the store or persons lawfully using the sidewalk.

20 F. There were no signs erected in the area of the protruding bolt to warn or alert customers of
21 the store or persons lawfully using the sidewalk of the existence of the bolt as a tripping
22 hazard, nor was the bolt highlighted in any way to warn of its presence as a tripping hazard.

1 FACTS

2 4.

3 On April 5, 2020, Plaintiff was entering the store when her foot caught on the protruding bolt
4 and she fell with great force onto the concrete sidewalk and sustained personal injuries as will be
5 detailed below.

6 COUNT I
7 COMMON-LAW NEGLIGENCE

8 6.

9 Plaintiff re-asserts the allegations contained in paragraph 3-5 as if fully set forth herein.

10 7.

11 Defendants, and each of them, owed a duty to their business invitees, including the plaintiff, to
12 inspect and maintain its premises in reasonably safe condition and to warn against defective
13 conditions that posed an unreasonable risk of harm.

14 8.

15 Defendants, and each of them, breached their aforesaid duty by failing to inspect the sidewalk to
16 detect unreasonably dangerous conditions, including the protruding bolt, and to remove and/or
17 warn of same.

18 ECONOMIC DAMAGES

19 9.

20 As a direct, proximate and foreseeable result of defendant's breach of its common-law duties,
21 Plaintiff sustained injuries to her knees and left foot. Plaintiff has been required to undergo
22 medical evaluation, care and treatment for her injuries. Plaintiff has incurred medical bills and
23 expenses associated with her treatment in the amount of \$13,517.35 and she will incur bills and
24 expenses for treatment in the future, all in an amount as will be proved at trial. Plaintiff's
25 treatment is ongoing, and she may have permanent loss of function depending upon the efficacy
of the medical care and treatment she receives.

NON-ECONOMIC DAMAGES- BOTH COUNTS

11.

As a direct, proximate, and foreseeable result of defendant's its common-law duties, plaintiff has experienced great pain and suffering, loss of function in her wrists, disruption of her activities of daily living, and mental anguish and distress associated with her injuries, in the past, present and she will continue to experience pain and suffering in the future for which he seeks damages not to exceed \$86,482.65 in non-economic damages. This amount may increase or decrease depending upon whether plaintiff's condition improves or worsens, and the extent, if any, of any permanency.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants, jointly and severally, for economic damages in the amount of \$13,517.35 or as otherwise proved at trial, and non-economic damages in the amount of \$86,482.65, for total damages of \$100,000.00, plus her just costs and disbursements, and any other relief deemed fair and just.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by a jury of twelve persons for all issues in this action.

Dated: March 22, 2022

s/ Richard E. Davis, Jr.
Richard E. Davis, Jr.
OSB No. 160685
Clark Law & Associates LLC
Attorney for Plaintiff